UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Ex parte NESTOR KOLCIO and BOHDAN R. KOLCIO

Appeal No. 2005-0927
Application No. 09/954,788

ON BRIEF

Before FRANKFORT, MCQUADE and BAHR, Administrative Patent Judges.

BAHR, Administrative Patent Judge.

DECISION ON APPEAL

This is a decision on appeal from the examiner's final rejection of claims 1-14, which are all of the claims pending in this application.

BACKGROUND

The appellants' invention relates to a method for accessing electrical components energized at voltages of about 500 volts rms and below or less than about 1000 volts rms using at least one tightly fittable rubber glove lined with a flock provided at the interior of the glove in at least the palm and hand back regions to an extent

wherein removal of the glove from the hand and positioning on the hands is carried out without substantial effort. Specifically, such gloves are lined with non-conductive, adhesively retained flock effective to facilitate removal of the glove from the hand with the flock diminishing from the bases of the finger sheaths to be substantially absent at the fingertip regions. A copy of the claims under appeal is set forth in the appendix to the appellants' brief.

The Prior Art

The examiner relied upon the following prior art references in rejecting the appealed claims:

Barasch	3,761,965	Oct. 2, 1973
Barnett et al. (Barnett)	4,536,890	Aug. 27, 1985
Daum et al. (Daum)	2002/0075232	Jun. 20, 2002 (filed Dec. 10, 2001)
Hutchinson-Mapa (Hutchinson) (French patent document)	2,448,307	Sept. 5, 1980[1]

The Rejections

Claims 1-6 and 8-13 stand rejected under 35 U.S.C. § 103 as being unpatentable over Hutchinson in view of Daum and Barasch.

Claims 7 and 14 stand rejected under 35 U.S.C. § 103 as being unpatentable over Hutchinson in view of Daum, Barasch and Barnett.

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[1] We derive our understanding of this reference from the English language translation appended to appellants' brief.

Rather than reiterate the conflicting viewpoints advanced by the examiner and the appellants regarding the above-noted rejections, we make reference to the answer for the examiner's complete reasoning in support of the rejections and to the brief for the appellants' arguments thereagainst.

OPINION

In reaching our decision in this appeal, we have given careful consideration to the appellants' specification and claims, to the applied prior art references, and to the respective positions articulated by the appellants and the examiner. For the reasons which follow, we cannot sustain the rejections.

Hutchinson discloses protective gloves for electricians capable of providing protection under test voltages of at least 5000 volts, each glove comprising an exterior layer made of a synthetic elastomer such as rubber, a middle layer of a synthetic elastomer having extensive dielectric properties and an internal layer of natural or synthetic textile fibers applied by flocking on the surface of the median layer. Hutchinson does not disclose a lining of flock which diminishes from the bases of the finger sheaths to be substantially absent at the fingertip portions as called for in independent claims 1 and 8. Rather, as illustrated in Figure 1, the fiber flock layer 5 of Hutchinson extends substantially uniformly over the palm, back hand and finger sheath portions of the glove.

Daum is directed to a data glove and is relied upon by the examiner for its teaching that data gloves are often made of heavy rubber, resulting in sweat build up inside the glove, and that it is common for a user to have to take a rest from using the glove after only several minutes' use. The examiner's application of Daum does nothing to cure the deficiency of Hutchinson noted above.

Barasch, the other reference relied upon by the examiner in rejecting claims 1-6 and 8-13, is directed to a disposable sanitary glove, such as a surgeon's glove, which can be conveniently donned without the use of powder. In accordance with Barasch's invention, a heavy concentration of granular vinyl chloride particles 24 is randomly distributed over palm portion 17 while a thinning out of particles is visibly noticeable in finger stall portions (column 2, lines 31-34). According to Barasch, the random distribution of the resin particles is an improvement over the uniform distribution of resin particles of the prior art, which yielded a film containing "microscopic discontinuities which are known as pinholes and thus cannot be used as surgeons' gloves due to sterility and contamination problems" (column 4, lines 1-7). While the gloves of Barasch's invention "may be donned without employing powder as a lubricant, there is no detrimental effect with respect to tactile sensitivity, frictional or grip characteristics over existing surgical gloves" (column 4, lines 9-14).

Unlike the examiner, we find no suggestion in Barasch to apply the fiber flock layer of Hutchinson so that the flock diminishes from the bases of the finger sheaths to

be substantially absent at the fingertip regions, as called for in claims 1 and 8. Specifically, Barasch is directed to sanitary disposable gloves, not to electrician's gloves, and the resin particles therein are not flock. The thin-film pinhole problem addressed by Barasch is not at issue in the electrician's gloves of Hutchinson.

In light of the above, we conclude that the examiner's combination of Hutchinson, Daum and Barasch is insufficient to establish a prima facie case that the invention recited in appellants' claims 1 and 8 would have been obvious to one of ordinary skill in the art at the time of appellants' invention.[2] We thus cannot sustain the rejection of claims 1 and 8, or claims 2-6 and 8-13 depending therefrom. The examiner's application of Barnett provides no cure for the deficiency in the combination of Hutchinson, Daum and Barasch. It follows that we also cannot sustain the rejection of claims 7 and 14, which depend from claims 1 and 8, respectively.

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[2] It is thus unnecessary for us to discuss the declarations of Nestor Kolcio submitted under 37 CFR § 1.132, copies of which were attached to the brief as Appendices F and G.

CONCLUSION

To summarize, the decision of the examiner to reject claims 1-14 under 35 U.S.C. § 103 is reversed.

REVERSED

CHARLES E. FRANKFORT
Administrative Patent Judge

JOHN P. MCQUADE
Administrative Patent Judge

JENNIFER D. BAHR
Administrative Patent Judge

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